

SCHOEMAN UPDIKE KAUFMAN & GERBER LLP

155 Willowbrook Boulevard, Suite 300

Wayne, New Jersey 07470

(973) 256-9000

Attorneys for Defendants,

William A. Stauffer and Federal Express Corporation

WALTER P. VARGO, JR.,

Plaintiff,

vs.

D & M TOURS, INC.; JOSE
ROMAN; FEDEX CORPORATION;
WILLIAM A. STAUFFER,

Defendants.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Case No. 2:21-cv-20030-WJM-MAH

**NOTICE OF MOTION TO DISMISS
PLAINTIFF'S COMPLAINT
PURSUANT TO FED. R. CIV. P.
12(b)(6)**

Document Electronically Filed

TO: John J. Piserchia, Esq.
MONTANARI LAW GROUP, LLC
1 Lower Notch Road
Little Falls, New Jersey 07424
Attorneys for Plaintiff

COUNSEL:

PLEASE TAKE NOTICE that Defendants Federal Express Corporation (misnamed in the Complaint as “FedEx Corporation”) (hereinafter “FedEx”) and William A. Stauffer (hereinafter collectively referred to as the “Moving Defendants”) will move before the Honorable William J. Martini, United States District Judge for the District of New Jersey, at the Martin Luther King, Jr. Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07101, on

Tuesday, January 18, 2022 at 10:00 a.m. in the forenoon or as soon thereafter counsel may be heard, for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing Plaintiff's Complaint in its entirety and with prejudice for failure to state a claim upon which relief can be granted on the grounds that the Complaint is barred by the statute of limitations. A proposed order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that in support of its motion, the Moving Defendants will rely on their accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6), the Declaration of Steven Gerber, Esq. in Support of the Moving Defendants' Fed. R. Civ. P. Rule 12(b)(6) Motion to Dismiss with Exhibits A - I, such reply papers as the Moving Defendants may file, and such oral argument of counsel as may be heard by the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 78.1, Defendant respectfully requests oral argument of this motion.

Respectfully submitted,

SCHOEMAN UPDIKE KAUFMAN
& GERBER LLP
*Attorneys for Defendants, William A.
Stauffer and Federal Express Corporation*

By: /s/ Steven Gerber
Steven Gerber

Dated: December 14, 2021

CERTIFICATION OF SERVICE

I hereby certify that on this date, I caused to be served via ECF and first class mail a true and correct copy of the foregoing Motion to Dismiss Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6) on counsel of record in this civil action:

John J. Piserchia, Esq.
MONTANARI LAW GROUP, LLC
1 Lower Notch Road
Little Falls, New Jersey 07424
Attorneys for Plaintiff

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

/s/ Steven Gerber
Steven Gerber

Dated: December 14, 2021